

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO, INC. SECURITIES LITIGATION  
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: Case No. 07-MD-1902 (GEL)  
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This Document Relates To:

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KENNETH M. KRYS and CHRISTOPHER  
STRIDE, as JOINT OFFICIAL LIQUIDATORS  
of SPHINX LTD., SPHINX STRATEGY FUND  
LTD.;  
SPHINX PLUS SPC LTD., SPHINX  
DISTRESSED LTD., SPHINX MERGER  
ARBITRAGE LTD.; SPHINX SPECIAL  
SITUATIONS LTD., SPHINX MACRO LTD.;  
SPHINX LONG/SHORT EQUITY LTD.;  
SPHINX MANAGED FUTURES LTD.; SPHINX  
EQUITY MARKET NEUTRAL LTD.; SPHINX  
CONVERTIBLE ARBITRAGE LTD.; SPHINX  
FIXED INCOME ARBITRAGE LTD.; SPHINX  
DISTRESSED FUND SPC; SPHINX MERGER  
ARBITRAGE FUND SPC; SPHINX SPECIAL  
SITUATIONS FUND SPC; SPHINX MACRO  
FUND SPC; SPHINX LONG/SHORT EQUITY  
FUND SPC; SPHINX MANAGED FUTURES  
FUND SPC; SPHINX EQUITY MARKET  
NEUTRAL FUND SPC; SPHINX  
CONVERTIBLE ARBITRAGE FUND SPC;  
SPHINX FIXED INCOME ARBITRAGE FUND  
SPC; PLUSFUNDS MANAGED ACCESS FUND  
SPC LTD.; KENNETH M. KRYS and  
CHRISTOPHER STRIDE as assignees of claims  
assigned by MIAMI CHILDREN'S HOSPITAL  
FOUNDATION, OFI, GREEN & SMITH  
INVESTMENT MANAGEMENT LLC, THALES  
FUND MANAGEMENT LLC, KELLNER  
DILEO & CO., LLC, MARTINGALE ASSET  
MANAGEMENT LP, LONGACRE FUND  
MANAGEMENT LLC, ARNHOLD & S.  
BLEICHROEDER ADVISERS LLC, PICTET &  
CIE, RGA AMERICA REINSURANCE  
COMPANY, DEUTSCHE BANK (SUISSE) SA,  
ARAB MONETARY FUND, HANSARD  
INTERNATIONAL LTD., CONCORDIA

: Case No. 08-cv-3065 (GEL)  
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:  
Case No. 08-cv-3086 (GEL)

: **STIPULATION AND ORDER**

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DATE FILED: 6/2/08

ADVISORS LLC, GABELLI SECURITIES, INC.,  
CITCO GLOBAL CUSTODY; and JAMES  
P. SINCLAIR as Trustee of the SPHINX TRUST,

Plaintiffs,

-against-

CHRISTOPHER SUGRUE; MARK  
KAVANAGH; BRIAN OWENS;  
PRICewaterhouseCOOPERS L.L.P.; MARI  
FERRIS; PRICewaterhouseCOOPERS  
CAYMAN ISLANDS; GIBSON, DUNN &  
CRUTCHER LLP; REFCO ALTERNATIVE  
INVESTMENTS LLC; GRANT THORNTON  
LLP; MARK RAMLER; ERNST & YOUNG U.S.  
LLP; MAYER BROWN LLP f/k/a MAYER  
BROWN ROWE & MAW LLP; JOSEPH  
COLLINS; EDWARD S. BEST; PAUL KOURY;  
PHILLIP R. BENNETT; ROBERT C. TROSTEN;  
TONE GRANT; SANTO MAGGIO; THOMAS  
HACKL; DENNIS KLEJNA; BAWAG P.S.K.  
BANK FUR ARBEIT UND WIRTSCHAFT UND  
OSTERREICHISCHE POSTPARKASSE  
AKTIENGESELLSCHAFT; JP MORGAN  
CHASE & CO.;  
CREDIT SUISSE SECURITIES  
(USA) LLC f/k/a CREDIT SUISSE FIRST  
BOSTON LLC; BANC OF AMERICA  
SECURITIES LLC; THOMAS H. LEE  
PARTNERS, L.P.; THOMAS H. LEE  
ADVISORS, LLC; THL MANAGERS V, LLC;  
THL EQUITY ADVISORS V, L.P.; THOMAS H.  
LEE EQUITY FUND V, L.P.; THOMAS H. LEE  
PARALLEL FUND V, L.P.; THOMAS H. LEE  
EQUITY (CAYMAN) FUND V, L.P.; THOMAS  
H. LEE INVESTORS LIMITED PARTNERSHIP;  
1997 THOMAS H. LEE NOMINEE TRUST;  
THOMAS H. LEE; DAVID V. HARKINS;  
SCOTT L. JAECKEL; SCOTT A. SCHOEN;  
WILLIAM T. PIGOTT; LIBERTY CORNER  
CAPITAL STRATEGIES, LLC; EMF  
FINANCIAL PRODUCTS LLC; EMF CORE  
FUND LTD.; DELTA FLYER FUND LLC; ERIC  
M. FLANAGAN; INGRAM MICRO, INC.; CIM  
VENTURES, INC.; BECKENHAM TRADING  
CO., INC.; ANDREW KRIEGER; COAST

ASSET MANAGEMENT, LLC, f/k/a COAST	:
ASSET MANAGEMENT LP; CS LAND	:
MANAGEMENT LLC; CHRISTOPHER	:
PETTIT; and REFCO GROUP HOLDINGS,	:
INC.; and REFCO ASSOCIATES, INC.,	:
	:
Defendants.	:
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**WHEREAS**, plaintiffs Kenneth M. Kryes and Christopher Stride, as Joint Official Liquidators of SPhinX, Ltd., SPhinX Macro Fund SPC, SPhinX Macro, Ltd., SPhinX Managed Futures Fund SPC, SPhinX Long/Short Equity Fund SPC, SPhinX Convertible Arbitrage Fund SPC, SPhinX Fixed Income Arbitrage Fund SPC, SPhinX Distressed Fund SPC, SPhinX Merger Arbitrage Fund SPC, SPhinX Special Situations Fund SPC, SPhinX Equity Market Neutral Fund SPC, SPhinX Strategy Fund, Ltd., SPhinX Plus SPC, Ltd., SPhinX Managed Futures, Ltd., SPhinX Long/Short Equity, Ltd., SPhinX Convertible Arbitrage, Ltd., SPhinX Fixed Income Arbitrage, Ltd., SPhinX Distressed, Ltd., SPhinX Merger Arbitrage, Ltd., SPhinX Special Situations, Ltd., SPhinX Equity Market Neutral, Ltd., and PlusFunds Managed Access Fund SPC, Ltd., Kenneth M. Kryes and Christopher Stride, as assignees of claims assigned by Miami Children's Hospital Foundation, OFI, Green & Smith Investment Management LLC, Thales Fund Management LLC, Kellner Dileo & Co., LLC, Martingale Asset Management LP, Longacre Fund Management LLC, Arnhold & S. Bleichroeder Advisers LLC, PicTet & Cie, RGA America Reinsurance Company, Deutsche Bank (Suisse) SA, Arab Monetary Fund, Hansard International Ltd., Concordia Advisors LLC, Gabelli Securities, Inc., Citco Global Custody, and James P. Sinclair, as Trustee of the SPhinX Trust

(collectively, "Plaintiffs"), commenced this action in the Supreme Court of the State of New York, New York County, on March 5, 2008 (the "Action");

**WHEREAS**, the Action was removed to the United States District Court for the Southern District of New York on March 26, 2008 and assigned to United States District Judge Gerard E. Lynch as a related case pursuant to Notices of Assignment dated April 8, 2008;

**WHEREAS**, a deposition protocol (the "Deposition Protocol") and a confidentiality order (the "Confidentiality Order") have been approved by the Court and are in effect in the Refco MDL, *In Re: Refco Securities Litigation*, 07-MD-1902 (GEL) (the "MDL");

**IT IS HEREBY STIPULATED AND AGREED**, by and between Plaintiffs and the undersigned parties, who or which are parties to the Action or other actions that are part of the MDL, through their attorneys, as follows:

1. Plaintiffs reserve all rights to seek remand and/or abstention in the Action, and to oppose the Motion to Refer filed in the Action by defendant Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft ("BAWAG"), and BAWAG retains all rights to seek referral to the Bankruptcy Court through the Motion to Refer, and this Stipulation and Order is without prejudice to such rights;

2. Without prejudice to this reservation of rights and subject to any subsequent order of the Court, Plaintiffs hereby agree to be parties to the Deposition Protocol and are permitted all rights provided thereunder, it being expressly understood that, by entering into this Stipulation, Plaintiffs do not waive, and expressly reserve, the right to seek relief from the terms of the Deposition Protocol, including, without limitation, an application for relief in the event that Plaintiffs believe that the deposition

process under the Deposition Protocol has not provided full and adequate deposition discovery to Plaintiffs relating to the matters raised in Plaintiffs' complaint herein, or in any amended version thereof;

3. Without prejudice to this reservation of rights, and subject to any subsequent order of the Court, Plaintiffs hereby agree to be parties to the Confidentiality Order and are permitted all rights provided thereunder;

4. The Action is deemed a "Related Action" for purposes of the Confidentiality Order;

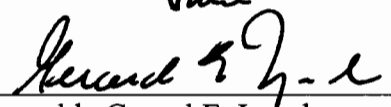
5. As parties to the Confidentiality Order, Plaintiffs shall be entitled to receive from each producing party all materials produced, or previously produced, by such party in any action subject to the Deposition Protocol; and

6. Plaintiffs reserve the right to seek modification of the restrictions on disclosure included in the Confidentiality Order at paragraph 10, as provided for in paragraph 32 of the Confidentiality Order, to the extent that materials obtained by Plaintiffs are necessary or useful in related matters or litigations, including any proceedings before a court of the Cayman Islands.

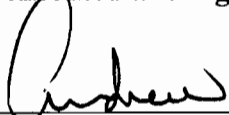
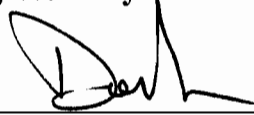
7. Nothing contained herein shall waive or act to limit any of Plaintiffs' or Defendants' rights under the Deposition Protocol and Confidentiality Order, all of which are expressly reserved.

8. Defendants reserve any and all rights to oppose any relief sought by Plaintiffs pursuant to Paragraphs 1, 2, and 6 of this Order.

DONE AND ORDERED  
this 2<sup>nd</sup> day of ~~May~~<sup>June</sup>, 2008

  
\_\_\_\_\_  
Honorable Gerard E. Lynch  
United States District Judge

**Consented and Agreed to by:**

   
\_\_\_\_\_  
David J. Molton (DM 1106)  
Andrew Dash (AD 7913)

BROWN RUDNICK BERLACK  
ISRAELS LLP  
Seven Times Square  
New York, NY 10036  
Telephone: (212) 209-4800  
Fax: (212) 209-4801  
[dmolton@brownrudnick.com](mailto:dmolton@brownrudnick.com)  
[adash@brownrudnick.com](mailto:adash@brownrudnick.com)  
*Co-Counsel for Plaintiffs*

\_\_\_\_\_  
Max W. Berger (MB 5010)  
John P. Coffey (JC 3832)  
Salvatore J. Graziano (SG 6854)  
John C. Browne (JB 0391)  
Jeremy P. Robinson  
BERSTEIN LITOWITZ BERGER &  
GROSSMAN LLP  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 554-1400  
Fax: (212) 554-1400  
[mwb@blbglaw.com](mailto:mwb@blbglaw.com)  
[jpc@blbglaw.com](mailto:jpc@blbglaw.com)  
[sjg@blbglaw.com](mailto:sjg@blbglaw.com)  
[jcb@blbglaw.com](mailto:jcb@blbglaw.com)  
[jpr@blbglaw.com](mailto:jpr@blbglaw.com)  
*Attorneys for RH Capital LLC  
And Co-Lead Counsel for the Prospective Class*

\_\_\_\_\_  
Sascha Rand (SR 7275)  
Rebecca Trent (RT 1863)  
QUINN EMANUEL URQUHART  
OLIVER & HEDGES LLP  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Fax: (212) 849-7100  
[sascharand@quinnemanuel.com](mailto:sascharand@quinnemanuel.com)  
[beckytrent@quinnemanuel.com](mailto:beckytrent@quinnemanuel.com)  
*Attorneys for Marc Kirschner as  
Trustee of the Refco Litigation Trust  
and Refco Private Actions Trust*



DONE AND ORDERED  
this \_\_\_\_ day of May, 2008

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Honorable Gerard E. Lynch  
United States District Judge

**Consented and Agreed to by:**

---

David J. Molton (DM 1106)  
Andrew Dash (AD 7913)  
BROWN RUDNICK BERLACK  
ISRAELS LLP  
Seven Times Square  
New York, NY 10036  
Telephone: (212) 209-4800  
Fax: (212) 209-4801  
[dmolton@brownrudnick.com](mailto:dmolton@brownrudnick.com)  
[adash@brownrudnick.com](mailto:adash@brownrudnick.com)  
*Co-Counsel for Plaintiffs*



---

Max W. Berger (MB 5010)  
John P. Coffey (JC 3832)  
Salvatore J. Graziano (SG 6854)  
John C. Browne (JB 0391)  
Jeremy P. Robinson  
BERSTEIN LITOWITZ BERGER &  
GROSSMAN LLP  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 554-1400  
Fax: (212) 554-1400  
[mwb@blbglaw.com](mailto:mwb@blbglaw.com)  
[jpc@blbglaw.com](mailto:jpc@blbglaw.com)  
[sg@blbglaw.com](mailto:sg@blbglaw.com)  
[jcb@blbglaw.com](mailto:jcb@blbglaw.com)  
[jpr@blbglaw.com](mailto:jpr@blbglaw.com)  
*Attorneys for RH Capital LLC  
And Co-Lead Counsel for the Prospective Class*

---

Sascha Rand (SR 7275)  
Rebecca Trent (RT 1863)  
QUINN EMANUEL URQUHART  
OLIVER & HEDGES LLP  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Fax: (212) 849-7100  
[sascharand@quinnemanuel.com](mailto:sascharand@quinnemanuel.com)  
[beckytrent@quinnemanuel.com](mailto:beckytrent@quinnemanuel.com)  
*Attorneys for Marc Kirschner as  
Trustee of the Refco Litigation Trust  
and Refco Private Actions Trust*

DONE AND ORDERED  
this \_\_\_\_ day of May, 2008

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Honorable Gerard E. Lynch  
United States District Judge

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---

David J. Molton (DM 1106)  
Andrew Dash (AD 7913)  
BROWN RUDNICK BERLACK  
ISRAELS LLP  
Seven Times Square  
New York, NY 10036  
Telephone: (212) 209-4800  
Fax: (212) 209-4801  
[dmolton@brownrudnick.com](mailto:dmolton@brownrudnick.com)  
[adash@brownrudnick.com](mailto:adash@brownrudnick.com)  
*Co-Counsel for Plaintiffs*

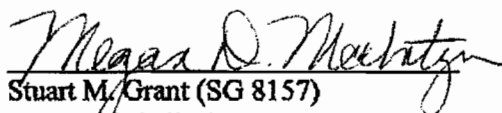
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BERSTEIN LITOWITZ BERGER &  
GROSSMAN LLP  
1285 Avenue of the Americas  
New York, NY 10019  
Telephone: (212) 554-1400  
Fax: (212) 554-1400  
[mwb@blbglaw.com](mailto:mwb@blbglaw.com)  
[jpc@blbglaw.com](mailto:jpc@blbglaw.com)  
[sig@blbglaw.com](mailto:sig@blbglaw.com)  
[jcb@blbglaw.com](mailto:jcb@blbglaw.com)  
[jpr@blbglaw.com](mailto:jpr@blbglaw.com)  
*Attorneys for RH Capital LLC  
And Co-Lead Counsel for the Prospective Class*



Sascha Rand (SR 7275)  
Rebecca Trent (RT 1863)  
QUINN EMANUEL URQUHART  
OLIVER & HEDGES LLP  
51 Madison Avenue, 22<sup>nd</sup> Floor  
New York, NY 10010  
Telephone: (212) 849-7000  
Fax: (212) 849-7100  
[sascharand@quinnemanuel.com](mailto:sascharand@quinnemanuel.com)  
[beckytrent@quinnemanuel.com](mailto:beckytrent@quinnemanuel.com)  
*Attorneys for Marc Kirschner as  
Trustee of the Refco Litigation Trust  
and Refco Private Actions Trust*





Stuart M. Grant (SG 8157)  
James J. Sabella (JS 5454)  
Megan D. McIntyre (*pro hac vice*)  
Jeff A. Almeida  
Christine M. Mackintosh  
GRANT & EISENHOFER P.A.  
Chase Manhattan Centre  
1201 North Market Street  
Wilmington, DE 19801  
Telephone: (302) 622-7000  
Fax: (302) 622-7100  
[sgrant@gelaw.com](mailto:sgrant@gelaw.com)  
[isabella@gelaw.com](mailto:isabella@gelaw.com)  
[mmcintyre@gelaw.com](mailto:mmcintyre@gelaw.com)  
[jalmeida@gelaw.com](mailto:jalmeida@gelaw.com)  
[cmackintosh@gelaw.com](mailto:cmackintosh@gelaw.com)  
*Attorneys for Pacific  
Investment Management Company, LLC  
And Co-Lead Counsel for the  
Prospective Class*

---

Robert B. McCaw (RM 7427)  
Philip D. Anker (PA 7833)  
Lori A. Martin (LM-7125)  
John V.H. Pierce (JP 2870)  
James Millar (JM 6091)  
Jeremy S. Winer (JW-8823)  
Ross E. Firsenbaum (RF 6306)  
WILMER CUTLER PICKERING  
HALE & DORR LLP  
399 Park Avenue  
New York, NY 10022  
Telephone: (212) 230-8800  
Fax: (212) 230-8888  
[robert.mccaw@wilmerhale.com](mailto:robert.mccaw@wilmerhale.com)  
[philip.anker@wilmerhale.com](mailto:philip.anker@wilmerhale.com)  
[lori.martin@wilmerhale.com](mailto:lori.martin@wilmerhale.com)  
[john.pierce@wilmerhale.com](mailto:john.pierce@wilmerhale.com)  
[james.millar@wilmerhale.com](mailto:james.millar@wilmerhale.com)  
[jeremy.winer@wilmerhale.com](mailto:jeremy.winer@wilmerhale.com)  
[ross.firsenbaum@wilmerhale.com](mailto:ross.firsenbaum@wilmerhale.com)  
*Attorneys for Defendants JP Morgan  
Chase & Co., Credit Suisse Securities  
(USA) LLC (formerly Credit Suisse First  
Boston LLC) and Banc of America  
Securities LLC*

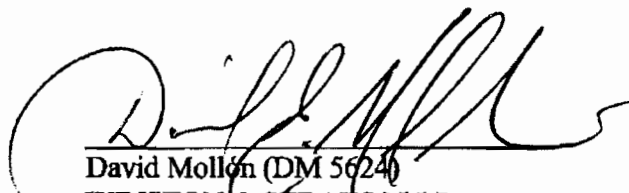
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Stuart M. Grant (SG 8157)  
James J. Sabella (JS 5454)  
Megan D. McIntyre (*pro hac vice*)  
Jeff A. Almeida  
Christine M. Mackintosh  
GRANT & EISENHOFER P.A.  
Chase Manhattan Centre  
1201 North Market Street  
Wilmington, DE 19801  
Telephone: (302) 622-7000  
Fax: (302) 622-7100  
[sgrant@gelaw.com](mailto:sgrant@gelaw.com)  
[jsabella@gelaw.com](mailto:jsabella@gelaw.com)  
[mmcintyre@gelaw.com](mailto:mmcintyre@gelaw.com)  
[jalmeida@gelaw.com](mailto:jalmeida@gelaw.com)  
[cmackintosh@gelaw.com](mailto:cmackintosh@gelaw.com)  
*Attorneys for Pacific  
Investment Management Company, LLC  
And Co-Lead Counsel for the  
Prospective Class*



---

Robert B. McCaw (RM 7427)  
Philip D. Anker (PA 7833)  
Lori A. Martin (LM-7125)  
John V.H. Pierce (JP 2870)  
James Millar (JM 6091)  
Jeremy S. Winer (JW-8823)  
Ross E. Firszenbaum (RF 6306)  
WILMER CUTLER PICKERING  
HALE & DORR LLP  
399 Park Avenue  
New York, NY 10022  
Telephone: (212) 230-8800  
Fax: (212) 230-8888  
[robert.mccaw@wilmerhale.com](mailto:robert.mccaw@wilmerhale.com)  
[philip.anker@wilmerhale.com](mailto:philip.anker@wilmerhale.com)  
[lori.martin@wilmerhale.com](mailto:lori.martin@wilmerhale.com)  
[john.pierce@wilmerhale.com](mailto:john.pierce@wilmerhale.com)  
[james.millar@wilmerhale.com](mailto:james.millar@wilmerhale.com)  
[jeremy.winer@wilmerhale.com](mailto:jeremy.winer@wilmerhale.com)  
[ross.firszenbaum@wilmerhale.com](mailto:ross.firszenbaum@wilmerhale.com)  
*Attorneys for Defendants JP Morgan  
Chase & Co., Credit Suisse Securities  
(USA) LLC (formerly Credit Suisse First  
Boston LLC) and Banc of America  
Securities LLC*



David Mollon (DM 5624)  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Fax (212) 294-4700  
[dmollon@winston.com](mailto:dmollon@winston.com)

Bruce R. Braun (BB 2505)  
Bradley E. Lerman (BL 1993)  
Linda T. Coberly (LC 8078)  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone (312) 558-5600  
Fax: (312) 558-5700  
[bbraun@winston.com](mailto:bbraun@winston.com)  
[blerman@winston.com](mailto:blerman@winston.com)  
[lcoberly@winston.com](mailto:lcoberly@winston.com)  
*Attorneys for Defendants*  
*Grant Thornton LLP*

---

Stuart L. Shapiro (SS 0894)  
Matthew J. Sava (MS 9231)  
Yoram J. Willer (YM 4207)  
SHAPIRO FORMAN ALLEN SAVA &  
McPHERSON LLP  
380 Madison Avenue  
New York, NY 10017  
Telephone: (212) 972-4900  
Fax: (212) 557-1275  
[Shapiro@sfa-law.com](mailto:Shapiro@sfa-law.com)  
[Sava@sfa-law.com](mailto:Sava@sfa-law.com)  
[Willer@sfa-law.com](mailto:Willer@sfa-law.com)  
*Attorneys for Defendants Joseph J.*  
*Murphy and Gerald M. Sherer*

---

Richard Cashman  
HELLER EHRMAN LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
Telephone: (212) 832-8300  
Fax: (212) 763-7600  
[richard.cashman@hellererhman.com](mailto:richard.cashman@hellererhman.com)  
*Attorneys for Defendant Philip Silverman*

---

Ivan Kline (IK 9591)  
Stuart I. Friedman (SF 9186)  
Elizabeth D. Meacham (EM 0890)  
FRIEDMAN & WITTENSTEIN  
600 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 750-8700  
Fax: (212) 223-8391  
[ikline@friedmanwittenstein.com](mailto:ikline@friedmanwittenstein.com)  
[sfriedman@friedmanwittenstein.com](mailto:sfriedman@friedmanwittenstein.com)  
[emeacham@friedmanwittenstein.com](mailto:emeacham@friedmanwittenstein.com)  
*Attorneys For Defendant William M.*  
*Sexton*

---

David Mollón (DM 5624)  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Fax (212) 294-4700  
[dmollon@winston.com](mailto:dmollon@winston.com)

Bruce R. Braun (BB 2505)  
Bradley E. Lerman (BL 1993)  
Linda T. Coberly (LC 8078)  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone (312) 558-5600  
Fax: (312) 558-5700  
[bbraun@winston.com](mailto:bbraun@winston.com)  
[blerman@winston.com](mailto:blerman@winston.com)  
[lcoberly@winston.com](mailto:lcoberly@winston.com)  
*Attorneys for Defendants*  
*Grant Thornton LLP*

---

Richard Cashman  
HELLER EHRMAN LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
Telephone: (212) 832-8300  
Fax: (212) 763-7600  
[richard.cashman@hellererhrman.com](mailto:richard.cashman@hellererhrman.com)  
*Attorneys for Defendant Philip Silverman*



---

Stuart L. Shapiro (SS 0894)  
Matthew J. Sava (MS 9231)  
Yoram J. Miller (YM 4207)  
SHAPIRO FORMAN ALLEN &  
SAVA LLP  
380 Madison Avenue  
New York, NY 10017  
Telephone: (212) 972-4900  
Fax: (212) 557-1275  
[Shapiro@sfa-law.com](mailto:Shapiro@sfa-law.com)  
[Sava@sfa-law.com](mailto:Sava@sfa-law.com)  
[Miller@sfa-law.com](mailto:Miller@sfa-law.com)  
*Attorneys for Defendants Joseph J.*  
*Murphy and Gerald M. Sherer*

---

Ivan Kline (IK 9591)  
Stuart I. Friedman (SF 9186)  
Elizabeth D. Meacham (EM 0890)  
FRIEDMAN & WITTENSTEIN  
600 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 750-8700  
Fax: (212) 223-8391  
[ikline@friedmanwittenstein.com](mailto:ikline@friedmanwittenstein.com)  
[sfriedman@friedmanwittenstein.com](mailto:sfriedman@friedmanwittenstein.com)  
[emeacham@friedmanwittenstein.com](mailto:emeacham@friedmanwittenstein.com)  
*Attorneys For Defendant William M.*  
*Sexton*

---

David Mollón (DM 5624)  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Fax (212) 294-4700  
[dmollon@winston.com](mailto:dmollon@winston.com)

Bruce R. Braun (BB 2505)  
Bradley E. Lerman (BL 1993)  
Linda T. Coberly (LC 8078)  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone (312) 558-5600  
Fax: (312) 558-5700  
[bbraun@winston.com](mailto:bbraun@winston.com)  
[blerman@winston.com](mailto:blerman@winston.com)  
[lcoberly@winston.com](mailto:lcoberly@winston.com)  
*Attorneys for Defendants*  
*Grant Thornton LLP*

---

Stuart L. Shapiro (SS 0894)  
Matthew J. Sava (MS 9231)  
Yoram J. Willer (YM 4207)  
SHAPIRO FORMAN ALLEN SAVA &  
McPHERSON LLP  
380 Madison Avenue  
New York, NY 10017  
Telephone: (212) 972-4900  
Fax: (212) 557-1275  
[Shapiro@sfa-law.com](mailto:Shapiro@sfa-law.com)  
[Sava@sfa-law.com](mailto:Sava@sfa-law.com)  
[Willer@sfa-law.com](mailto:Willer@sfa-law.com)  
*Attorneys for Defendants Joseph J.*  
*Murphy and Gerald M. Sherer*

---

*Richard Cashman*  
Richard Cashman (RC 4764)  
HELLER EHRMAN LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
Telephone: (212) 832-8300  
Fax: (212) 763-7600  
[richard.cashman@hellererhman.com](mailto:richard.cashman@hellererhman.com)  
*Attorneys for Defendant Philip Silverman*

---

Ivan Kline (IK 9591)  
Stuart I. Friedman (SF 9186)  
Elizabeth D. Meacham (EM 0890)  
FRIEDMAN & WITTENSTEIN  
600 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 750-8700  
Fax: (212) 223-8391  
[ikline@friedmanwittenstein.com](mailto:ikline@friedmanwittenstein.com)  
[sfriedman@friedmanwittenstein.com](mailto:sfriedman@friedmanwittenstein.com)  
[emeacham@friedmanwittenstein.com](mailto:emeacham@friedmanwittenstein.com)  
*Attorneys For Defendant William M.*  
*Sexton*

---

David Mollón (DM 5624)  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166  
Telephone: (212) 294-6700  
Fax (212) 294-4700  
[dmollon@winston.com](mailto:dmollon@winston.com)


Bruce R. Braun (BB 2505)  
Bradley E. Lerman (BL 1993)  
Linda T. Coberly (LC 8078)  
WINSTON & STRAWN LLP  
35 West Wacker Drive  
Chicago, IL 60601  
Telephone (312) 558-5600  
Fax: (312) 558-5700  
[bbraun@winston.com](mailto:bbraun@winston.com)  
[blerman@winston.com](mailto:blerman@winston.com)  
[lcoberly@winston.com](mailto:lcoberly@winston.com)  
*Attorneys for Defendants*  
*Grant Thornton LLP*

---

Richard Cashman  
HELLER EHRMAN LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
Telephone: (212) 832-8300  
Fax: (212) 763-7600  
[richard.cashman@hellererhman.com](mailto:richard.cashman@hellererhman.com)  
*Attorneys for Defendant Philip Silverman*

---

Stuart L. Shapiro (SS 0894)  
Matthew J. Sava (MS 9231)  
Yoram J. Willer (YM 4207)  
SHAPIRO FORMAN ALLEN SAVA &  
McPHERSON LLP  
380 Madison Avenue  
New York, NY 10017  
Telephone: (212) 972-4900  
Fax: (212) 557-1275  
[Shapiro@sfa-law.com](mailto:Shapiro@sfa-law.com)  
[Sava@sfa-law.com](mailto:Sava@sfa-law.com)  
[Willer@sfa-law.com](mailto:Willer@sfa-law.com)  
*Attorneys for Defendants Joseph J.*  
*Murphy and Gerald M. Sherer*



---

Ivan Kline (IK 9591)  
Stuart I. Friedman (SF 9186)  
Elizabeth D. Meacham (EM 0890)  
FRIEDMAN & WITTENSTEIN  
600 Lexington Avenue  
New York, NY 10022  
Telephone: (212) 750-8700  
Fax: (212) 223-8391  
[ikline@friedmanwittenstein.com](mailto:ikline@friedmanwittenstein.com)  
[sfriedman@friedmanwittenstein.com](mailto:sfriedman@friedmanwittenstein.com)  
[emeacham@friedmanwittenstein.com](mailto:emeacham@friedmanwittenstein.com)  
*Attorneys For Defendant William M.*  
*Sexton*

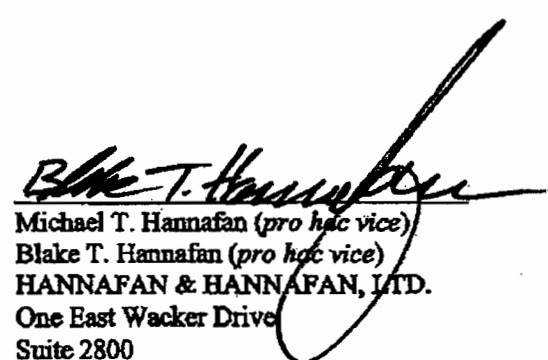




Norman L. Eisen (*pro hac vice*)  
Laura E. Neish (LN 0040)  
ZUCKERMAN SPAEDER LLP  
1540 Broadway, Suite 1604  
New York, New York 10036  
Telephone: (212) 704-9600  
Fax: (212) 704-4256  
[neisen@zuckerman.com](mailto:neisen@zuckerman.com)  
[lneish@zuckerman.com](mailto:lneish@zuckerman.com)  
*Attorneys for Defendant Tone Grant*

James J. Capra, Jr.  
ORRICK, HERRINGTON  
& SUTCLIFFE LLP  
666 Fifth Avenue  
New York, NY 10103-0001  
Telephone: (212) 506-5000  
[jcapra@orrick.com](mailto:jcapra@orrick.com)  
*Attorneys for Defendants  
PricewaterhouseCoopers LLP and  
Mari Ferris*

Greg A. Danilow (GD 1621)  
Paul Dutkia (PD 2568)  
Seth Goodchild  
Joshua S. Amsel  
WEIL GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Fax: (212) 310-8007  
[greg.danilow@weil.com](mailto:greg.danilow@weil.com)  
[paul.dutkia@weil.com](mailto:paul.dutkia@weil.com)  
[seth.goodchild@weil.com](mailto:seth.goodchild@weil.com)  
[joshua.amsel@weil.com](mailto:joshua.amsel@weil.com)  
*Attorneys for the "THL" and "Audit  
Committee" Defendants*

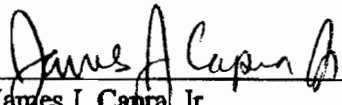


Michael T. Hannafan (*pro hac vice*)  
Blake T. Hannafan (*pro hac vice*)  
HANNAFAN & HANNAFAN, LTD.  
One East Wacker Drive  
Suite 2800  
Chicago, IL 60601  
Telephone: (312) 527-0055  
Fax: (312) 527-0220  
[mth@hannafanlaw.com](mailto:mth@hannafanlaw.com)  
[bth@hannafanlaw.com](mailto:bth@hannafanlaw.com)  
*Attorneys for Defendant Tone Grant*

---

Norman L. Eisen (*pro hac vice*)  
Laura E. Neish (LN 0040)  
ZUCKERMAN SPAEDER LLP  
1540 Broadway, Suite 1604  
New York, New York 10036  
Telephone: (212) 704-9600  
Fax: (212) 704-4256  
[neisen@zuckerman.com](mailto:neisen@zuckerman.com)  
[lnish@zuckerman.com](mailto:lnish@zuckerman.com)  
*Attorneys for Defendant Tone Grant*

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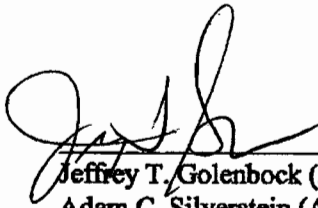
  
James J. Capra, Jr.  
ORRICK, HERRINGTON  
& SUTCLIFFE LLP  
666 Fifth Avenue  
New York, NY 10103-0001  
Telephone: (212) 506-5000  
[jcapra@orrick.com](mailto:jcapra@orrick.com)  
*Attorneys for Defendants*  
*PricewaterhouseCoopers LLP and*  
*Mari Ferris*

---

Greg A. Danilow (GD 1621)  
Paul Dutkia (PD 2568)  
Seth Goodchild  
Joshua S. Amsel  
WEIL GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, NY 10153  
Telephone: (212) 310-8000  
Fax: (212) 310-8007  
[greg.danilow@weil.com](mailto:greg.danilow@weil.com)  
[paul.dutkia@weil.com](mailto:paul.dutkia@weil.com)  
[seth.goodchild@weil.com](mailto:seth.goodchild@weil.com)  
[joshua.amsel@weil.com](mailto:joshua.amsel@weil.com)  
*Attorneys for the "THL" and "Audit*  
*Committee" Defendants*

---

Michael T. Hannafan (*pro hac vice*)  
Blake T. Hannafan (*pro hac vice*)  
Nicholas A. Pavich (*pro hac vice*)  
HANNAFAN & HANNAFAN, LTD.  
One East Wacker Drive  
Suite 1208  
Chicago, IL 60601  
Telephone: (312) 527-0055  
Fax: (312) 527-0220  
[mth@hannafanlaw.com](mailto:mth@hannafanlaw.com)  
[bth@hannafanlaw.com](mailto:bth@hannafanlaw.com)  
[nap@hannafanlaw.com](mailto:nap@hannafanlaw.com)  
*Attorney for Defendant Tone Grant*



---

Jeffrey T. Golenbock (JG 2217)  
Adam C. Silverstein (AS 4876)  
GOLENBOCK EISEMAN ASSOR  
BELL & PESKOE LLP  
437 Madison Avenue, 35<sup>th</sup> Floor  
New York, NY 10022-7302  
Telephone: (212) 907-7300  
Fax: (212) 754-0330  
[jgolenbock@golenbock.com](mailto:jgolenbock@golenbock.com)  
[asilverstein@golenbock.com](mailto:asilverstein@golenbock.com)  
*Attorneys for Defendants Philip R. Bennett,  
Refco Group Holdings Inc., and Phillip R.  
Bennett Three Year Annuity Trust*

---

Helen B. Kim (HK 8757)  
KATTEN MUCHIN ROSENMAN LLP  
2029 Century Park East  
Suite 2600  
Los Angeles, California 90067-3012  
Telephone: (310) 788-4400  
Fax: (310) 788-4471  
[helen.kim@kattenlaw.com](mailto:helen.kim@kattenlaw.com)  
*Attorneys for Defendant Dennis Klejna*

---

Scott E. Hershman  
Stephen R. Blacklocks  
Richard Soto  
HUNTON & WILLIAMS LLP  
200 Park Avenue  
New York, New York 10166-0091  
[shershman@hunton.com](mailto:shershman@hunton.com)  
[sblacklocks@hunton.com](mailto:sblacklocks@hunton.com)  
[rsoto@hunton.com](mailto:rsoto@hunton.com)  
*Attorneys for Defendant Santo C. Maggio*

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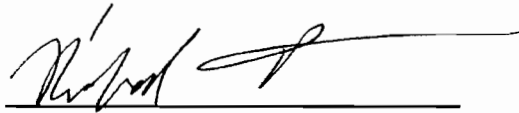
Richard E. Nathan (RN 6487)  
NATHAN LAW OFFICE  
123 South June Street  
Los Angeles, CA 90004  
Telephone: (323) 931-8080  
Fax: (323) 931-8008  
[renathan@att.net](mailto:renathan@att.net)  
*Attorneys for Defendant Dennis Klejna*

---

Jeffrey T. Golenbock (JG 2217)  
Adam C. Silverstein (AS 4876)  
GOLENBOCK EISEMAN ASSOR  
BELL & PESKOE LLP  
437 Madison Avenue, 35<sup>th</sup> Floor  
New York, NY 10022-7302  
Telephone: (212) 907-7300  
Fax: (212) 754-0330  
[jgolenbock@golenbock.com](mailto:jgolenbock@golenbock.com)  
[asilverstein@golenbock.com](mailto:asilverstein@golenbock.com)  
*Attorneys for Defendants Philip R. Bennett,  
Refco Group Holdings Inc., and Phillip R.  
Bennett Three Year Annuity Trust*

---

Helen B. Kim (HK 8757)  
KATTEN MUCHIN ROSENMAN LLP  
2029 Century Park East  
Suite 2600  
Los Angeles, California 90067-3012  
Telephone: (310) 788-4400  
Fax: (310) 788-4471  
[helen.kim@kattenlaw.com](mailto:helen.kim@kattenlaw.com)  
*Attorneys for Defendant Dennis Klejna*



---

Scott E. Hershman  
Stephen R. Blacklocks  
Richard Soto  
HUNTON & WILLIAMS LLP  
200 Park Avenue  
New York, New York 10166-0091  
[shershman@hunton.com](mailto:shershman@hunton.com)  
[sblacklocks@hunton.com](mailto:sblacklocks@hunton.com)  
[rsoto@hunton.com](mailto:rsoto@hunton.com)  
*Attorneys for Defendant Santo C. Maggio*

---

Richard E. Nathan (RN 6487)  
NATHAN LAW OFFICE  
123 South June Street  
Los Angeles, CA 90004  
Telephone: (323) 931-8080  
Fax: (323) 931-8008  
[renathan@att.net](mailto:renathan@att.net)  
*Attorneys for Defendant Dennis Klejna*


---

Jeffrey T. Golenbock (JG 2217)  
Adam C. Silverstein (AS 4876)  
GOLENBOCK EISEMAN ASSOR  
BELL & PESKOE LLP  
437 Madison Avenue, 35<sup>th</sup> Floor  
New York, NY 10022-7302  
Telephone: (212) 907-7300  
Fax: (212) 754-0330  
[jgolenbock@golenbock.com](mailto:jgolenbock@golenbock.com)  
[asilverstein@golenbock.com](mailto:asilverstein@golenbock.com)  
*Attorneys for Defendants Philip R. Bennett,  
Refco Group Holdings Inc., and Phillip R.  
Bennett Three Year Annuity Trust*

---

Scott E. Hershman  
Stephen R. Blacklocks  
Richard Soto  
HUNTON & WILLIAMS LLP  
200 Park Avenue  
New York, New York 10166-0091  
[shershman@hunton.com](mailto:shershman@hunton.com)  
[sblacklocks@hunton.com](mailto:sblacklocks@hunton.com)  
[rsoto@hunton.com](mailto:rsoto@hunton.com)  
*Attorneys for Defendant Santo C. Maggio*

  
Helen B. Kim (HK 8757)  
KATTEN MUCHIN ROSENMAN LLP  
2029 Century Park East  
Suite 2600  
Los Angeles, California 90067-3012  
Telephone: (310) 788-4400  
Fax: (310) 788-4471  
[helen.kim@kattenlaw.com](mailto:helen.kim@kattenlaw.com)  
*Attorneys for Defendant Dennis Klejna*

  
Richard E. Nathan (RN 6487)  
NATHAN LAW OFFICE  
123 South June Street  
Los Angeles, CA 90004  
Telephone: (323) 931-8080  
Fax: (323) 931-8008  
[renathan@att.net](mailto:renathan@att.net)  
*Attorneys for Defendant Dennis Klejna*



Aaron E. Albert (AA 8078)  
Alan C. Thomas  
FISCHER PORTER THOMAS &  
REINFELD, P.C.  
440 Sylvan Avenue, Suite 130  
Englewood Cliffs, NJ 07632-2700  
Telephone: (201) 569-5959  
Fax: (201) 871-4544  
[aalbert@fpmtlaw.com](mailto:aalbert@fpmtlaw.com)  
[athomas@fpmtlaw.com](mailto:athomas@fpmtlaw.com)  
*Attorneys for Defendants Beckenham  
Trading Company, Inc. and  
Andrew Krieger*

Christopher R. Harris (CH 6513)  
Miles Ruthberg (MR7910)  
Kevin Metz  
LATHAM & WATKINS LLP  
885 Third Avenue  
New York, New York 10022  
Telephone: (212) 906-1200  
Fax: (212) 751-4864  
*Attorneys for Defendant Ernst &  
Young LLP*


Scott A. Edelman (SE 5247)  
Sander Bak (SB 2263)  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
1 Chase Manhattan Plaza  
New York, NY 10005  
Telephone: (212) 530-5000  
[SEdelman@Milbank.com](mailto:SEdelman@Milbank.com)  
[SBak@Milbank.com](mailto:SBak@Milbank.com)  
*Attorneys for Marc Kirschner as Trustee  
of the Refco Litigation Trust and  
Refco Private Actions Trust, for Capital  
Management and VR Plaintiffs, and  
Co-Lead Counsel for Lead Plaintiffs and the  
Putative Class in In re Refco Capital  
Markets, Ltd. Brokerage Customer Securities Lit.*

John K. Villa (*pro hac vice*)  
Michael S. Sundermeyer (*pro hac vice*)  
Craig D. Singer (*pro hac vice*)  
Thomas G. Ward (TW 6255)  
William T. Burke (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 434-5000  
Fax: (202) 434-5029  
[jvilla@wc.com](mailto:jvilla@wc.com)  
[msundermeyer@wc.com](mailto:msundermeyer@wc.com)  
[csinger@wc.com](mailto:csinger@wc.com)  
[tward@wc.com](mailto:tward@wc.com)  
[wburke@wc.com](mailto:wburke@wc.com)  
*Attorneys for Defendant Mayer  
Brown LLP*



---

Aaron E. Albert (AA 8078)  
Alan C. Thomas  
FISCHER PORTER THOMAS &  
REINFELD, P.C.  
440 Sylvan Avenue, Suite 130  
Englewood Cliffs, NJ 07632-2700  
Telephone: (201) 569-5959  
Fax: (201) 871-4544  
[aalbert@fpmtlaw.com](mailto:aalbert@fpmtlaw.com)  
[athomas@fpmtlaw.com](mailto:athomas@fpmtlaw.com)  
*Attorneys for Defendants Beckenham  
Trading Company, Inc. and  
Andrew Krieger*

  
Christopher R. Harris (CH 6513)  
Miles Ruthberg (MR7910)  
Kevin Metz  
LATHAM & WATKINS LLP  
885 Third Avenue  
New York, New York 10022  
Telephone: (212) 906-1200  
Fax: (212) 751-4864  
*Attorneys for Defendant Ernst &  
Young LLP*

---

Scott A. Edelman (SE 5247)  
Sander Bak (SB 2263)  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
1 Chase Manhattan Plaza  
New York, NY 10005  
Telephone: (212) 530-5000  
[SEdelman@Milbank.com](mailto:SEdelman@Milbank.com)  
[SBak@Milbank.com](mailto:SBak@Milbank.com)  
*Attorneys for Marc Kirschner as Trustee  
of the Refco Litigation Trust and  
Refco Private Actions Trust, for Capital  
Management and VR Plaintiffs, and  
Co-Lead Counsel for Lead Plaintiffs and the  
Putative Class in In re Refco Capital  
Markets, Ltd. Brokerage Customer Securities Lit.*

---


John K. Villa (*pro hac vice*)  
Michael S. Sundermeyer (*pro hac vice*)  
Craig D. Singer (*pro hac vice*)  
Thomas G. Ward (TW 6255)  
William T. Burke (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 434-5000  
Fax: (202) 434-5029  
[jvilla@wc.com](mailto:jvilla@wc.com)  
[msundermeyer@wc.com](mailto:msundermeyer@wc.com)  
[csinger@wc.com](mailto:csinger@wc.com)  
[tward@wc.com](mailto:tward@wc.com)  
[wburke@wc.com](mailto:wburke@wc.com)  
*Attorneys for Defendant Mayer  
Brown LLP*

---

Aaron E. Albert (AA 8078)  
Alan C. Thomas  
FISCHER PORTER THOMAS &  
REINFELD, P.C.  
440 Sylvan Avenue, Suite 130  
Englewood Cliffs, NJ 07632-2700  
Telephone: (201) 569-5959  
Fax: (201) 871-4544  
[aalbert@fpmtlaw.com](mailto:aalbert@fpmtlaw.com)  
[athomas@fpmtlaw.com](mailto:athomas@fpmtlaw.com)  
*Attorneys for Defendants Beckenham  
Trading Company, Inc. and  
Andrew Krieger*

---

Christopher R. Harris (CH 6513)  
Miles Ruthberg (MR7910)  
Kevin Metz  
LATHAM & WATKINS LLP  
885 Third Avenue  
New York, New York 10022  
Telephone: (212) 906-1200  
Fax: (212) 751-4864  
*Attorneys for Defendant Ernst &  
Young LLP*



---

Scott A. Edelman (SE 5247)  
Sander Bak (SB 2263)  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
1 Chase Manhattan Plaza  
New York, NY 10005  
Telephone: (212) 530-5000  
[SEdelman@Milbank.com](mailto:SEdelman@Milbank.com)  
[SBak@Milbank.com](mailto:SBak@Milbank.com)  
*Attorneys for Marc Kirschner as Trustee  
of the Refco Litigation Trust and  
Refco Private Actions Trust, for Capital  
Management and VR Plaintiffs, and  
Co-Lead Counsel for Lead Plaintiffs and the  
Putative Class in In re Refco Capital  
Markets, Ltd. Brokerage Customer Securities Lit.*

---

John K. Villa (*pro hac vice*)  
Michael S. Sundermeyer (*pro hac vice*)  
Craig D. Singer (*pro hac vice*)  
Thomas G. Ward (TW 6255)  
William T. Burke (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 434-5000  
Fax: (202) 434-5029  
[jvilla@wc.com](mailto:jvilla@wc.com)  
[msundermeyer@wc.com](mailto:msundermeyer@wc.com)  
[csinger@wc.com](mailto:csinger@wc.com)  
[tward@wc.com](mailto:tward@wc.com)  
[wburke@wc.com](mailto:wburke@wc.com)  
*Attorneys for Defendant Mayer  
Brown LLP*

---

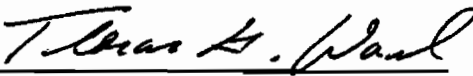
Aaron E. Albert (AA 8078)  
Alan C. Thomas  
FISCHER PORTER THOMAS &  
REINFELD, P.C.  
440 Sylvan Avenue, Suite 130  
Englewood Cliffs, NJ 07632-2700  
Telephone: (201) 569-5959  
Fax: (201) 871-4544  
[aalbert@fpmtlaw.com](mailto:aalbert@fpmtlaw.com)  
[athomas@fpmtlaw.com](mailto:athomas@fpmtlaw.com)  
*Attorneys for Defendants Beckenham  
Trading Company, Inc. and  
Andrew Krieger*

---

Scott A. Edelman (SE 5247)  
Sander Bak (SB 2263)  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
1 Chase Manhattan Plaza  
New York, NY 10005  
Telephone: (212) 530-5000  
[SEdelman@Milbank.com](mailto:SEdelman@Milbank.com)  
[SBak@Milbank.com](mailto:SBak@Milbank.com)  
*Attorneys for Marc Kirschner as Trustee  
of the Refco Litigation Trust and  
Refco Private Actions Trust, for Capital  
Management and VR Plaintiffs, and  
Co-Lead Counsel for Lead Plaintiffs and the  
Putative Class in In re Refco Capital  
Markets, Ltd. Brokerage Customer Securities Lit.*

---

Christopher R. Harris (CH 6513)  
Miles Ruthberg (MR7910)  
Kevin Metz  
LATHAM & WATKINS LLP  
885 Third Avenue  
New York, New York 10022  
Telephone: (212) 906-1200  
Fax: (212) 751-4864  
*Attorneys for Defendant Ernst &  
Young LLP*

  
John K. Villa (*pro hac vice*)  
Michael S. Sundermeyer (*pro hac vice*)  
Craig D. Singer (*pro hac vice*)  
Thomas G. Ward (TW 6255)  
William T. Burke (*pro hac vice*)  
WILLIAMS & CONNOLLY LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 434-5000  
Fax: (202) 434-5029  
[jvilla@wc.com](mailto:jvilla@wc.com)  
[msundermeyer@wc.com](mailto:msundermeyer@wc.com)  
[csinger@wc.com](mailto:csinger@wc.com)  
[tward@wc.com](mailto:tward@wc.com)  
[wburke@wc.com](mailto:wburke@wc.com)  
*Attorneys for Defendant Mayer  
Brown LLP*



William J. Schwartz (WJS 8462)  
Jonathan P. Bach (JPB 9710)  
Timothy M. Kerr (TK 3979)  
Daniel M. Hibshoosh (DH 8959)  
COOLEY GODWARD  
KRONISH LLP  
1114 Avenue of the Americas  
New York, NY 10036-7798  
Telephone: (212) 479-6000  
Fax: (212) 479-6275  
[wschwartz@cooley.com](mailto:wschwartz@cooley.com)  
[jbach@cooley.com](mailto:jbach@cooley.com)  
[tkerr@cooley.com](mailto:tkerr@cooley.com)  
[dhibshoosh@cooley.com](mailto:dhibshoosh@cooley.com)  
*Attorneys for Defendant Joseph P. Collins*

---

Charles E. Clayman  
Amy E. Millard  
CLAYMAN & ROSENBERG  
305 Madison Avenue  
Suite 1301  
New York, NY 10165  
Telephone: (212) 922-1080  
Fax: (212) 949-8255  
[clayman@clayro.com](mailto:clayman@clayro.com)  
[amillard@clayro.com](mailto:amillard@clayro.com)  
*Attorneys for Defendant  
Paul Koury*

---

Robert F. Wise, Jr.  
Paul Spagnoletti  
DAVIS POLK & WARDWELL  
450 Lexington Avenue  
New York, NY 10017  
Telephone: (212) 450-4000  
Fax: (212) 450-3512  
[robert.wise@dpw.com](mailto:robert.wise@dpw.com)  
*Attorneys for Defendants Ingram  
Micro, Inc. and CIM Ventures, Inc.*

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---

William J. Schwartz (WJS 8462)  
Jonathan P. Bach (JPB 9710)  
Timothy M. Kerr (TK 3979)  
Daniel M. Hibshoosh (DH 8959)  
COOLEY GODWARD  
KRONISH LLP  
1114 Avenue of the Americas  
New York, NY 10036-7798  
Telephone: (212) 479-6000  
Fax: (212) 479-6275  
[wschwartz@cooley.com](mailto:wschwartz@cooley.com)  
[jbach@cooley.com](mailto:jbach@cooley.com)  
[tkerr@cooley.com](mailto:tkerr@cooley.com)  
[dhibshoosh@cooley.com](mailto:dhibshoosh@cooley.com)  
*Attorneys for Defendant Joseph P. Collins*

---

Charles E. Clayman  
Amy E. Millard  
CLAYMAN & ROSENBERG  
305 Madison Avenue  
Suite 1301  
New York, NY 10165  
Telephone: (212) 922-1080  
Fax: (212) 949-8255  
[clayman@clayro.com](mailto:clayman@clayro.com)  
[amillard@clayro.com](mailto:amillard@clayro.com)  
*Attorneys for Defendant  
Paul Koury*

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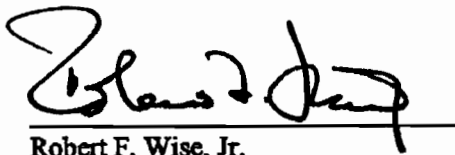
Robert F. Wise, Jr.  
Paul Spagnoletti  
DAVIS POLK & WARDWELL  
450 Lexington Avenue  
New York, NY 10017  
Telephone: (212) 450-4000  
Fax: (212) 450-3512  
[robert.wise@dpw.com](mailto:robert.wise@dpw.com)  
*Attorneys for Defendants Ingram  
Micro, Inc. and CIM Ventures, Inc.*

---

William J. Schwartz (WJS 8462)  
Jonathan P. Bach (JPB 9710)  
Timothy M. Kerr (TK 3979)  
Daniel M. Hibshoosh (DH 8959)  
COOLEY GODWARD  
KRONISH LLP  
1114 Avenue of the Americas  
New York, NY 10036-7798  
Telephone: (212) 479-6000  
Fax: (212) 479-6275  
[wschwartz@cooley.com](mailto:wschwartz@cooley.com)  
[jbach@cooley.com](mailto:jbach@cooley.com)  
[tkerr@cooley.com](mailto:tkerr@cooley.com)  
[dhshoosh@cooley.com](mailto:dhshoosh@cooley.com)  
*Attorneys for Defendant Joseph P. Collins*

---

Charles E. Clayman  
Amy E. Millard  
CLAYMAN & ROSENBERG  
305 Madison Avenue  
Suite 1301  
New York, NY 10165  
Telephone: (212) 922-1080  
Fax: (212) 949-8255  
[clayman@clayro.com](mailto:clayman@clayro.com)  
[amillard@clayro.com](mailto:amillard@clayro.com)  
*Attorneys for Defendant*  
*Paul Koury*



Robert F. Wise, Jr.  
Paul Spagnoletti  
DAVIS POLK & WARDWELL  
450 Lexington Avenue  
New York, NY 10017  
Telephone: (212) 450-4000  
Fax: (212) 450-3512  
[robert.wise@dpw.com](mailto:robert.wise@dpw.com)  
*Attorneys for Defendants Ingram*  
*Micro, Inc. and CIM Ventures, Inc.*





Reed S. Oslan, P.C. (*pro hac vice*)

James C. Joslin (*pro hac vice*)

Micah E. Marcus (*pro hac vice*)

KIRKLAND & ELLIS LLP

200 East Randolph Drive

Chicago, Illinois 60601-6636

Telephone: (312) 861-2000

Fax: (312) 861-2200

[roslan@kirkland.com](mailto:roslan@kirkland.com)

[jjoslin@kirkland.com](mailto:jjoslin@kirkland.com)

[mmarcus@kirkland.com](mailto:mmarcus@kirkland.com)

*Attorneys for Defendants*

*Coast Asset Management LLC*

*and CS Land Management LLC*